In paragraph 7 of the Action, the Examiner interprets the claim term "tangentially," allegedly in light of the specification of this application, to mean nothing more specific than "arranged in the vicinity of or along the vessel body." The Examiner's position is based in part on the Examiner's belief that the specification does not disclose an embodiment that meets what the Examiner considers to be the geometrical meaning of "tangential," touching at one point but not intersecting. This position truncates the language of the claims and imparts a meaning to "tangentially" that is not reasonable on this record.

First, applicant respectfully notes that claim 1 states that the water inlet is located "tangentially to the body of the vessel **so as to impart rotational movement to the volume of water**." In other words, the structure claimed by applicant in claim 1 requires the tangential location of the water inlet in such a way that the introduction of water through the inlet located as claimed will impart rotational movement to the water. The Examiner's interpretation gives no meaning whatever to the emphasized words of claim 1 and is thus not reasonable.

Second, the Examiner's resort to the specification to impart a meaning to "tangentially" that is virtually boundless violates the rules under which Examiners may look to the specification to derive a meaning other than the ordinary meaning of a claim term. As stated in MPEP 2111.II., an Examiner must apply the ordinary meaning to a claim term, in this case "tangentially," which applicant agrees means "touching at one point but not intersecting," unless the specification sets forth a different definition for the term or otherwise restricts its meaning. There is nothing in the specification to support the Examiner's failure to use the agreed ordinary meaning of "tangentially." The specification of this application discloses that it is essential that the flow be directed in a substantially tangential direction or the fluid within the vessel will not be induced to swirl, and will not thereby create a vortex.

In Hess, the water inlet connection can be at any convenient orientation because the direction of flow is not important. Hess thus does not disclose a tangentially directed water inlet as claimed. The inlet of Hess, as can be seen from Fig. 1 of Hess, is radial to the vessel, not

tangential. Since in this context radial and tangential are essentially opposite to one another in meaning, Hess does not disclose the claimed tangential inlet. No person of ordinary skill in this art would consider Hess to disclose the tangentially disposed inlet as claimed. Furthermore, the structure disclosed in Hess is not configured **so as to impart rotational movement to the volume of water,**" since the Hess structure is not capable of producing that claimed result. As a result, Hess cannot anticipate claims 1-4 and 7 for this reason alone.

The Examiner has also improperly found Hess to disclose the claimed controlling of the rate of water inlet. Applicant's invention includes a controller that varies the height of a dynamic column of water in a controlled way by controlling the rate of water inflow against the rate of outflow. The apparatus described by Hess is nothing like that. Hess does not at all disclose a water feature as claimed in claim 1 but instead discloses a simple water clock in which the time is indicated by the heights of a plurality of *static* water columns, which Hess terms time keeping reservoirs. Contrary to the Examiner's suggestion, Hess does not disclose "controlling the rate of water inlet in comparison with the water outlet rate so as to vary the height of the volume of the vessel from a minimum to a maximum over a period of one hour." Instead, the tubes fill one by one to their full heights to show the passage of time minute by minute, and do not show time by the varying height of the water in the body of the device as claimed. There is no structure in Hess that controls the rate of filling of the tubes in comparison with any rate of water outflow, as claimed; instead, Hess discloses static tubes filled one by one, *without regard to any rate of water outflow*. The Examiner's discussion in paragraph 6 of the Action fails to give weight to the requirement in the language of claim 1 that the controller determine the rate of water inflow by comparison with a rate of water outflow. For this additional reason, the Examiner should withdraw the rejection of claims 1-4 and 7 as anticipated by Hess.

Claims 1, 5 and 6 stand rejected as anticipated by Sonnweber, essentially on the same grounds as stated with respect to Hess. This rejection is respectfully traversed.

As explained previously, Sonnweber discloses a simple, static water feature having a cylindrical vessel 1 which stands in a reservoir 3. A pump 6 forces water into the vessel 1 via tangential inlet 5 so that a vortex 2 is formed in the vessel 1. However, in contrast to the Examiner's suggestion, Sonnweber does not disclose a "controller" for varying the height of the vortex 2 in the vessel 1. Sonnweber simply teaches that the flow rate of the pump 6 (not "controller 6" as asserted by the Examiner) should be selected such that the vortex 2 fills the vessel 1. Sonnweber also states that, if additional water is provided in the vessel 1, the water will simply overflow the vessel 1 and fall back into the reservoir 3. There is no disclosure or suggestion, implicit or explicit, that the flow rate of the pump can be, or is, controlled in a manner which allows the height of the vortex 2 to be varied in the vessel 1 once the preferred height has been selected. Furthermore, there is nothing in Sonnweber that discloses a controller that determines the rate of water inflow in comparison with a rate of water outflow. There is no disclosure in Sonnweber of water outflow at all, and nothing in the pending Action points to such a disclosure. This rejection should be withdrawn.

Claims 8 and 16-19 again stand rejected as anticipated by Koenig. This rejection is respectfully traversed.

The disclosure in Koenig relates to a water feature basin which is specially shaped to have a reducing cross-section and a tangential inlet. Water is allowed to flow into the basin under gravity. A vortex is created by the water swirling in the basin. The height of the vortex builds up and, at a critical point, the vortex collapses. This effect therefore relies upon the attaining of an unstable condition to achieve the desired effect. Koenig does not disclose a controller which varies the height of the vortex or controls the rate of water inflow in comparison with the rate of outflow as claimed. Koenig does not disclose any sort of variation in or controlling of the flow rate of the incoming water, so it cannot disclose the claimed controller. Indeed, Koenig teaches the exact opposite of this invention, which is the controlled variation of the height of a rotating volume of water. Applicant notes that the Examiner's comments in paragraphs 6 and 7 of the

Action fail to respond to his prior arguments against Koenig and do not explain why Koenig discloses the full subject matter of the invention of claims 8 and 16-19.

For the foregoing reasons, early action allowing claims 1-20 in this application is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 532412000100.

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